

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RALLUND LEE OTTLINGER,

Defendant-Appellant.

UNPUBLISHED

July 10, 2001

No. 225344

Dickinson Circuit Court

LC No. 99-002470-FH

Before: Saad, P.J., and Holbrook, Jr., and Murphy, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for use of a motor vehicle without authority, MCL 750.414. Defendant was sentenced as an habitual offender, fourth offense, MCL 769.12, to 30 to 84 months' imprisonment. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's conviction arises out of the use of his mother's car. Evidence established that defendant was allowed to use the car, and on May 15, 1999, he took the car with permission to go to the gym. Defendant said he would be home around 6:00 p.m. When defendant did not return home the next day, his mother went to police and signed a missing vehicle report. Defendant called a day later and told his mother the car was at the airport. Defendant was convicted as charged.

On appeal, defendant asserts that there was insufficient evidence to support his conviction because his use of the car was authorized. Citing *United States v One 1941 Chrysler Brougham Sedan*, 74 F Supp 970 (ED Mich, 1947), defendant asserts that the use of the vehicle beyond the scope of the authorization cannot support a conviction. We disagree.

This Court is not bound by a federal court decision construing Michigan law. *Allen v Owens-Corning Fiberglas Corp*, 225 Mich App 397, 402; 571 NW2d 530 (1997). In *People v Howard*, 127 Mich App 50, 60-61; 338 NW2d 549 (1983), this Court found that the elements of the offense are (1) the motor vehicle did not belong to the defendant, (2) having obtained lawful possession of the vehicle from the owner, the defendant used it beyond the authority granted to him, and (3) the defendant must have intended to use the vehicle beyond the authority granted to him, knowing that he did not have the authority to do so. Viewed in a light most favorable to the prosecution, there was sufficient evidence to support the jury's finding that the essential elements

of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

Affirmed.

/s/ Henry William Saad

/s/ Donald E. Holbrook, Jr.

/s/ William B. Murphy